

# Notice of Allowability

Application No.

10/500,592

Examiner

Daniel A. Hess

Applicant(s)

SUERBAUM, CLEMENS

Art Unit

2876

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's amendment and arguments of 7/25/07.
2. ☒ The allowed claim(s) is/are 17-36.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

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### **DETAILED ACTION**

This action is responsive to Applicant's filing of an amendment and arguments on 7/25/2007.

These have been entered into the electronic file of record.

#### ***Allowable Subject Matter***

Claims 17-36 are allowed.

The following is an examiner's statement of reasons for allowance:

Firstly, the rejection of claims 17-36 under 35 USC 112, 2<sup>nd</sup> paragraph, is withdrawn.

The Examiner had rejected the independent claims 17 and 32 as being incomplete for omitting essential elements or steps. The present amendments to the claims fill in the missing elements (the crucial fact that the protocol is presented to users and voted at the time of communications.)

The claims were previously so broad that the Examiner was able to reject many of the claims with the article "Comparison of Wireless Standards-Setting" by Tan, dated 09/2001 even though the article clearly is far from what the Applicant considers to be the invention. That article mentions that members of an industry association voted to adopt wireless standards. Since the previous version of the claims did not associate a communication parameter selection process with a present communication, the Examiner was able to reject a number of the claims as being anticipated by this seemingly unrelated art.

In view of the Applicant's amendments, this art is no longer applicable.

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Elsewhere, the prior art fails to teach or fairly suggest defining parameters used for transmitting data between a plurality of users in a communication network, involving all of the elements or steps as conveyed in claims 17 and 32.

Various art, such as Helm et al. (US 5,719,871) and Roden, III (US 6,801,951) shows computerized 'voting' where communication parameters are automatically selected based on the needs of different devices. Such art differs from what is claimed however because there is a lack of involvement of users. In the claimed invention, users play a critical role in selection of parameters.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel A. Hess whose telephone number is (571) 272-2392. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

9/24/07

A handwritten signature in black ink, appearing to read 'D. Hess', with a long horizontal line extending to the right.

**DANIEL HESS**  
**PRIMARY PATENT EXAMINER**